

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**

ROBERTO GARZA
Plaintiff

VS.

**EDCOUCH-ELSA
INDEPENDENT SCHOOL DISTRICT,**
Defendant

§
§
§
§
§
§
§

CIVIL NO.:

JURY DEMAND

NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Defendant, Edcouch-Elsa Independent School District, files this notice of removal under 28 U.S.C. §1446(a).

A. Introduction

1. Plaintiff is Roberto Garza. Defendant is Edcouch-Elsa Independent School District.
2. This action commenced on August 20, 2015 in the 370th Judicial District Court of Hidalgo County, Texas, as Cause No.: C-4311-15-G. As of this date, the case was styled Roberto Garza vs. Edcouch-Elsa Independent School District. In Plaintiff's Original Petition which was filed on August 20, 2015, Plaintiff alleges harassment and states claims under the "Texas Whistleblower Act." On December 14, 2016, Plaintiff filed Plaintiff's First Amended Original Petition against Defendant Edcouch-Elsa Independent School District, alleging harassment and violations of anti-retaliation statutes under 20 USC 3608 and 15 USC 2651 and the First Amendment, pursuant to 42 USC 1983.

B. Basis for Removal

3. Removal is proper because this action is a civil action over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1331 and 28 U.S.C. § 1343. It is

removable to this Court by Defendants pursuant to the provisions of 28 U.S.C. §1441; it is a civil action in which the federal district courts have original jurisdiction over the subject matter pursuant to the statutory and constitutional provisions noted above, since the case arises under the laws of the Constitution and the United States. This Court also has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367, because said claims are so related to Plaintiff's federal claims over which this Court has original jurisdiction on federal question grounds.

4. This Notice of Removal is filed within thirty (30) days of receipt by Defendant of Plaintiff's First Amended Original Petition in which he added federal statutory and U.S. Constitution claims; this Notice is therefore timely filed pursuant to the provisions of 28 U.S.C. § 1446(b).
5. Copies of all pleadings, process, orders, and other filings in the state-court suit are attached to this notice as required by 28 U.S.C. §1446(a).
6. Venue is proper in this district under 28 U.S.C. §1441 (a) because the state court where the suit has been pending is located in this district.
7. Defendants will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending.

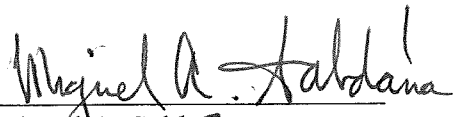
C. Jury Demand

8. Plaintiff demanded a jury in the state-court suit. Defendant demanded a jury in the state-court suit.

D. Conclusion

9. **WHEREFORE, PREMISES CONSIDERED,** Defendant, Edcouch-Elsa Independent School District, prays that this cause be removed to the United States District Court for the Southern District of Texas, McAllen Division, and that the said Court grant said Defendant all relief, special or general, at law or in equity, to which it shows itself justly entitled.

Respectfully Submitted,

By: 
Miguel A. Saldana
State Bar No. 17529450
Federal ID No. 54700
105 East 3rd Street
Weslaco, Texas 78596
E-mail: msaldana@wabsa.com
Telephone: (956) 647-5122
Facsimile: (956) 647-5421

OF COUNSEL:

**WALSH GALLEGOS TREVIÑO
RUSSO & KYLE P.C.**

**ATTORNEY IN CHARGE FOR
DEFENDANT:**

**EDCOUCH-ELSA INDEPENDENT
SCHOOL DISTRICT**

By: /s/ Leandra C. Ortiz
Leandra C. Ortiz
State Bar No.: 24043854
Federal ID No.: 574013
105 East 3rd Street
Weslaco, Texas 78596
E-mail: lortiz@wabsa.com
Telephone: (956) 647-5122
Facsimile: (956) 647-5421

OF COUNSEL:

**WALSH GALLEGOS TREVIÑO
RUSSO & KYLE P.C.**

By: /s/ Katie E. Payne
Katie E. Payne
State Bar No. 24071347
Federal ID No.: 1786856
N.E. Loop 410, Suite 900
San Antonio, Texas 78216
E-Mail: kpayne@wabsa.com
Telephone: (210) 979-6633
Facsimile: (210) 979-7024

OF COUNSEL:


**WALSH GALLEGOS TREVIÑO
RUSSO & KYLE P.C.**

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 21st day of December, 2016, a true and correct copy of the foregoing *Notice of Removal* was electronically filed with the Clerk of the Court using CM/ECF system and has been served on Plaintiffs' counsel of record, pursuant to Federal Rules of Civil Procedure as follows:

ATTORNEY FOR PLAINTIFF:

David R. Joe
ANTHONY & MIDDLEBROOK, P.C.
375 S. 10th Street
Raymondville, Texas 78580
VIA E-MAIL: davidjoe@amlawteam.com
VIA FACSIMILE: (956) 699-3031


Miguel A. Saldaña